

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PROTINGENT, INC., a Washington corporation,

CASE NO. C20-1551-KKE

Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION TO STRIKE AND RE-
NOTING MOTION FOR SUMMARY
JUDGMENT**

LISA GUSTAFSON-FEIS et al.

Defendant.

LISA GUSTAFSON-FEIS, an individual,

Counterclaim Plaintiff,

V.

PROTINGENT, INC., a Washington corporation;
AETNA LIFE INSURANCE COMPANY, a
Connecticut corporation; RAWLINGS &
ASSOCIATES PLLC, a Kentucky professional
limited liability company

Counterclaim Defendants.

This matter comes before the Court on Plaintiff and Counter-Defendant Protิงent, Inc.’s (“Protิงent”) motion to strike (Dkt. No. 75), contained in its Reply to its motion for summary

1 judgment (Dkt. No. 69). For the reasons stated below, the Court denies the motion to strike and
 2 provides Protингent an opportunity to submit a supplemental Reply.

3 Protингent filed a motion for Summary Judgment on October 26, 2023, and the motion was
 4 noted for Friday, November 17, 2023. Dkt. No. 69. Under Local Civil Rule 7(d), Defendant Lisa
 5 Gustafson-Feis's Response to the motion was due on or before Monday, November 13, 2023.
 6 Gustafson-Feis, proceeding *pro se*, filed a response at 6:50 p.m. PST on Thursday, November 16,
 7 2023. Dkt. No. 74. The Response is 17 pages long and contains 112 paragraphs. *Id.* at 17.
 8 Protингent filed a Reply on Friday, November 17, 2023, requesting that the Court strike the
 9 untimely Response and providing a short Reply. Dkt. No. 75 at 1-3.

10 It is within the Court's discretion to consider an untimely response. *Hahn v. Waddington*,
 11 782 F. App'x 607, 609 (9th Cir. 2019); *N.H. Ins. Co. v. Blaze Const. Inc.*, No. 93-35096, 1994 WL
 12 274032, at *3 (9th Cir. June 20, 1994) (citing *Cia. Petrolera Caribe, Inc. v. Arco Caribbean, Inc.*,
 13 754 F.2d 404, 408–10 (1st Cir. 1985) (it is not an abuse of discretion to consider a late response if
 14 the other party replies and is not prejudiced)). “The Supreme Court has instructed the federal
 15 courts to liberally construe the ‘inartful pleading’ of pro se litigants.” *Eldridge v. Block*, 832 F.2d
 16 1132, 1137 (9th Cir. 1987) (quoting *Boag v. MacDougall*, 454 U.S. 364, 365 (1982)).

17 Given Gustafson-Feis's status as a pro se litigant, and the fact that the motion before the
 18 Court is dispositive, the Court exercises its discretion to DENY Protингent's motion to strike
 19 Gustafson-Feis's untimely Response. The Court admonishes the parties that future late filings are
 20 unlikely to be accepted.

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1 If Protิงent wishes to file a supplemental reply, it may do so no later than Friday,
2 December 1, 2023. The clerk is DIRECTED to re-note Protิงent's motion (Dkt. No. 69) for
3 December 1, 2023.

4 Dated this 21st day of November, 2023.

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7 Kymberly K. Evanson
8 United States District Judge
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